

AMENDED IN SENATE JUNE 15, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY APRIL 25, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2490

Introduced by Assembly Member Ruskin

(Principal coauthor: Senator Speier)

**(Coauthors: Assembly Members Chan, Dymally, Evans,
Goldberg, Koretz, Mullin, Pavley, and Saldana)**

(Coauthors: Senators Kehoe, Kuehl, Ortiz, and Romero)

February 23, 2006

An act to add Article 4 (commencing with Section 25546) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2490, as amended, Ruskin. California Toxic Release Inventory Program.

Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

This bill would enact the California Toxic Release Inventory Program Act of 2006 to require Cal-EPA to establish the California Toxic Release Inventory Program if the Secretary of Cal-EPA

determines there has been a specified change made to EPCRA, or the regulations adopted pursuant to EPCRA, so as to make the act or regulations less stringent or to reduce or lessen any reporting requirement imposed pursuant to the federal regulations, *that reduces the timely access by the public to accurate information about chemical releases. The bill would prohibit the secretary from making the determination if there are legal challenges to the changes to EPCRA or the federal regulations that result in a stay of injunction of the changes. The bill would require the secretary to make the determination within 90 calendar days from the date of adoption of the changes to EPCRA or the federal regulations, or from the date on which the stay or injunction on the changes is dissolved, whichever is later.* The bill would require that program to impose the same requirements as EPCRA within this state, including, but not limited to, any regulations adopted pursuant to EPCRA, as in effect on January 1, 2006. The bill would require the agency, no later than one calendar year after the date when the secretary makes that determination, to adopt regulations to implement the program that are identical in application to the federal regulations in effect on January 1, 2006. *The bill would require the adopted regulations to apply retroactively to the effective date of the changes made to EPCRA or the federal regulations to ensure no gap in data collection. The bill would require the agency to determine whether existing California specific reporting requirements can substitute, in whole or in part, for the information the would be required under the adopted regulations. The bill would require the adopted regulations to use the same reporting forms used for the EPCRA prior to the changes in the federal reporting requirements unless the agency determines that an alternative form is necessary to substitute chemical release data reported under existing California specific programs.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 4 (commencing with Section 25546) is
- 2 added to Chapter 6.95 of Division 20 of the Health and Safety
- 3 Code, to read:

Article 4. California Toxic Release Inventory Program Act Of
2006

25546. The Legislature finds and declares all of the following:

(a) The people of California have the right to know the hazards posed by toxic releases near their homes, schools, and workplaces. They have the right to know how much pollution is being released into the water, air, and soil.

(b) Since its inception in 1986, as part of the federal Emergency Planning and Community Right-to-Know Act of 1986, (EPCRA; Chapter 116 (commencing with Section 11001) of Title 42 of the United States Code), the Toxic Release Inventory (TRI) has supplied this essential information on toxic chemical releases to the public. The goal of the TRI is to empower citizens, through information, to hold companies and local governments accountable for how toxic chemicals are managed.

~~(c) In 1990, the demand for more information continued, and the federal Pollution Prevention Act of 1990 (Chapter 133 (commencing with Section 13101) of Title 42 of the United States Code) was enacted to require that additional data on waste management and source reduction activities be reported under the TRI.~~

~~(d) The Toxic Release Inventory has expanded its scope over the years. The database contains detailed information on nearly 650 chemicals and chemical categories that over 23,000 industrial and federal facilities manage through disposal or other releases, and waste management for recycling, energy recovery, or treatment. Most recently, the reporting thresholds for certain persistent, bioaccumulative, and toxic chemicals were reduced in order to be able to provide additional information to the public on these chemicals.~~

~~(e) In an October 4, 2005, Federal Register notice, the federal Environmental Protection Agency proposed to make changes to the regulations implementing the TRI. The changes would raise the threshold amount of a toxic chemical that is required to be reported and would decrease the frequency under which those reports are required to be submitted. The federal Environmental~~

1 Protection Agency is calling this effort “Toxic Release Inventory
2 Burden Reduction.”

3 ~~(f) The changes proposed in the federal regulations would~~
4 ~~undermine the major goals of the TRI program and pose a threat~~
5 ~~to public health and safety and the environment. The proposed~~
6 ~~changes would also deny the citizens of California the right to~~
7 ~~know about toxic threats in their communities and shift the~~
8 ~~burden of dealing with dangerous pollutants from the polluter to~~
9 ~~the citizens of California.~~

10 ~~(g) The proposed changes would deny policymakers access to~~
11 ~~critical data needed to establish protective, sustainable~~
12 ~~environmental policy. Every citizen of California would also be~~
13 ~~denied access to data they need to be active participants in their~~
14 ~~communities to ensure they have safe, clean places to live, work,~~
15 ~~and raise families.~~

16 ~~(h) The proposed changes would create further environmental~~
17 ~~justice challenges by placing an unfair burden for residents in~~
18 ~~low-income areas, where chemical plants and other polluters are~~
19 ~~often located.~~

20 ~~(i) The TRI is the premier public health and environmental~~
21 ~~communities’ right-to-know program that provides a framework~~
22 ~~that should not be threatened and protections to ensure that it is~~
23 ~~not jeopardized must be pursued.~~

24 ~~(j) To ensure that the citizens of California have access to~~
25 ~~timely and accurate data about toxic releases, it is necessary to~~
26 ~~create a California Toxic Release Inventory Program within the~~
27 ~~California Environmental Protection Agency.~~

28 *(c) It is the intent of the Legislature that California citizens do*
29 *not lose access to the information necessary to understand the*
30 *potential threats to public health and safety and the environment*
31 *that is available through the Toxic Release Inventory as it existed*
32 *on January 1, 2006, including the ease of accessibility.*

33 25546.1. This article shall be known, and may be cited, as the
34 “California Toxic Release Inventory Program Act of 2006.”

35 25546.2. For purposes of this article, the following definitions
36 shall apply:

37 (a) “Agency” means the California Environmental Protection
38 Agency.

39 (b) “Federal act” means the federal Emergency Planning and
40 Community Right to Know Act of 1986 (EPCRA; Chapter 116

(commencing with Section 11001) of Title 42 of the United States Code).

(c) “Federal regulations” means the regulations found in Part 372 (commencing with Section 372.1) of Subchapter J of Chapter 1 of Title 40 of the Code of Federal Regulations, as those regulations read on January 1, 2006.

(d) “Program” means the California Toxic Release Inventory Program established pursuant to this article.

~~25546.4.~~ (e) “Secretary” means the Secretary for Environmental Protection.

25546.3. (a) The agency shall establish the California Toxic Release Inventory Program if the secretary makes, *after a public hearing and receipt and review of public comment*, either of the following determinations:

(1) There has been a change made to the federal act to repeal the federal act or otherwise lessen or make less stringent any requirement imposed pursuant to the federal act *in effect on January 1, 2006, that reduces the timely access by the public to accurate information about chemical releases.*

(2) A federal regulation adopted pursuant to the federal act is repealed, amended, or otherwise revised so as to make the regulation less stringent or to reduce or lessen any reporting requirement imposed pursuant to the federal regulations *in effect on January 1, 2006, that reduces timely access by the public to accurate information about chemical releases.*

(b) *The secretary shall not make a determination pursuant to subdivision (a) if there are legal challenges to the changes made to the federal act or federal regulations that result in the changes being stayed or enjoined by a court.*

(c) *The secretary shall make a determination pursuant to subdivision (a) within 90 calendar days from the date of the adoption of the changes in the federal act or federal regulations, or from the date on which a stay or injunction against the implementation of the changes in the federal act or federal regulations is dissolved, whichever is later.*

~~(b)~~

(d) The program established pursuant to this article shall impose requirements within this state that are the same as the requirements imposed pursuant to the federal act, including, but

1 not limited to, any regulation adopted pursuant to the federal act
2 that is in effect on January 1, 2006.

3 25546.4. (a) No later than one calendar year after the date
4 when the secretary makes the determination specified in
5 subdivision (a) of Section 25546.3, the agency shall adopt
6 regulations to implement the program that are identical in
7 application to the federal regulations in effect on January 1,
8 2006.

9 (b) *The regulations adopted pursuant to subdivision (a) shall*
10 *require that the information be reported retroactively to the*
11 *effective date of the change in the federal act or federal*
12 *regulations as to ensure no gap in data collection.*

13 (c) *The agency shall evaluate existing California specific*
14 *reporting requirements and determine if this information can*
15 *substitute, in whole or in part, for the information that would be*
16 *required under the adopted regulations. This review shall*
17 *include, but not be limited to, reporting required pursuant to the*
18 *Air Toxic “Hot Spot” Information and Assessment Act (Part 6*
19 *(commencing with Section 44300) of Division 26), the Hazardous*
20 *Waste Source Reduction and Management Review Act of 1989*
21 *(Article 11.9 (commencing with Section 25244.12) of Chapter 6.5*
22 *of Division 20), and reporting required by the regional water*
23 *quality control boards pursuant to the National Pollution*
24 *Discharge Elimination System permits and waste discharge*
25 *requirements.*

26 (d) *The regulations shall prescribe the same reporting forms*
27 *in use at the federal level prior to the removal, relaxation, or*
28 *reduction in federal reporting requirements unless the agency*
29 *determines that an alternative form is necessary to substitute*
30 *chemical release data reported under existing California specific*
31 *programs, to ensure that the information is consolidated. The*
32 *information shall be made publicly available in a manner*
33 *similar to, and provide for convenient access, as the federal*
34 *Toxic Release Inventory as it existed on January 1, 2006.*